

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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GALIOTO TOWING LLC

Plaintiff,

Case No. 2021-CV-1163-bhl

v.

HUNTINGTON NATIONAL BANK, and

TFS RECOVERY, INC.,

Defendants.

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**TFS RECOVERY, INC.'S PRETRIAL REPORT**

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Defendant TFS Recovery, Inc. ("TFS") by its attorneys Turke & Steil LLP respectfully submits this pretrial report pursuant to the Court's scheduling order. Dkt. 59.

**A. Summary of Facts, Claims and Defenses**

Galioto Towing, LLC ("Galioto") has a single claim for trial: that TFS breached the peace while repossessing one of Galioto's tow trucks and is liable to Galioto for compensatory and punitive damages.

**i. Breach of Peace (Count One)**

TFS' defense to the breach of peace claim is two-fold: first, that the repossession did not occur as Galioto claims. TFS' agent, Keith Taylor and his wife Ashley, will testify that Keith approached the tow truck driver's side on public property while its driver, Jeremy McGoldrick, was standing near another vehicle. Keith entered the tow truck and took possession of it peacefully and with McGoldrick's acquiescence. The jury will hear

from two corroborating eyewitnesses – Ashley Taylor and James Doering – who will confirm this version of events.

TFS's second defense to the breach of peace claim is that Galioto has produced no reliable evidence showing it suffered pecuniary loss from the alleged unlawful repossession. TFS addresses this evidentiary problem in its motions *in limine* filed herewith.

## **ii. Punitive Damage Claim**

In the event the Court grants TFS' motion *in limine* to exclude evidence on Galioto's compensatory damage claim, TFS' contingent motion seeks the exclusion of all evidence related to punitive damages.

### **B. Witness List**

- a. **Kevin Davis**, contact through TFS' counsel. Mr. Davis is the owner of TFS and will provide background about TFS, the repossession job TFS undertook for Huntington Bank and TFS' repossession practices and procedures. Mr. Davis's direct examination will be less than 1 hour.
- b. **Keith Taylor**, contact through TFS' counsel. Mr. Taylor is an employee of TFS who handled the repossession. Mr. Taylor will explain what happened on April 1, 2021 and his direct examination will be 30-45 minutes.
- c. **Ashley Taylor**, contact through TFS' counsel. Ms. Taylor is married to Mr. Taylor and accompanied Mr. Taylor on April 1, 2021 for the repossession. Ms. Taylor will testify to what she witnessed. Ms. Taylor's direct examination will be 30-45 minutes.

- d. **James Doering**, West 78<sup>th</sup> N675 Wauwatosa Road, Unit 118, Cedarburg, WI 53012. Mr. Doering was an eyewitness to the repossession and will testify to what he saw. Mr. Doering's direct examination will be less than 30 minutes.
- e. **Officer Brandon Pierce**. Waukesha Police Department. Office Pierce will authenticate a police report from April 1, 2021. His direct exam will be 15-20 minutes.
- f. **Jeremy McGoldrick**, adversely.
- g. **Nicholas Bautz**, adversely
- h. **Amber Bautz**, adversely

**C. Exhibit List**

Please see TFS' Exhibit List, filed herewith.

**D. Deposition Designations**

None.

**E. Stipulated Facts**

None.

**F. Proposed Voir Dire Questions**

- a. Have you or anyone close to you ever had a vehicle or other property repossessed?
- b. Have you or anyone close to you ever defaulted on a loan of any kind?
- c. Did you or anyone close to you have your business impacted negatively by the Covid-19 pandemic?

### **G. Proposed Jury Instructions**

Please see proposed Jury Instructions, filed herewith.

### **H. Proposed Verdict Form**

Please see proposed special verdict form, filed herewith.

Dated this 7th day of June 2024.

**TURKE & STEIL LLP**

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